**THE HONOURABLE SRI JUSTICE GODA RAGHURAM**

**WRIT PETTION NO.23056 OF 2006**

**BETWEEN:**

B.Bujjaiah son of Peda Venkaiah

…Petitioner

vs.

The Assistant Commissioner, Endowments Department, Ranganayakulapet,Nellore and others

..Respondents

**THE HONOURABLE SRI JUSTICE GODA RAGHURAM**

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**ORAL ORDER**

The petitioner claims to be in occupation of and cultivating Ac.11.00 of agricultural land belonging to Sri Koteswara Swamy Temple, Duvvuru village, Sangam Mandal, Nellore District, in Sy.Nos.441 to 443 of the village. He claims to have been put in possession of the lands in question pursuant to an auction held in 2003. He states to have invested huge amounts for development of the land, for raising bunds around it and for creating ingress and egress and rendering the land fit for cultivation. He pleads that for developing the land he sold his personal land of an extent of Ac.1.00 to discharge his existing debts and to deposit Rs.40,000/- as caution deposit. The petitioner claims to have raised paddy crop this year and while so to have been informed that the Devastanam is proposing to conduct an auction scheduled to be held on 07-11-2006. The petitioner asserts that there was a local publication by *tom tom* in the village as to the conduct of the auction scheduled on 07-11-2006 and that the Chairman and members of the trust committee of the Devastanam had directed the petitioner to continue and had also represented to the concerned Assistant Commissioner of Endowments that they would continue the petitioner as the lessee of the lands in question. The petitioner too submitted a representation to the 1st respondent on 04-09-2006 represented not to conduct the auction and that he be

continued as a “lessee”. As there is no response and the Devastanam is proceeding with the auction, the petitioner is before this Court seeking interdiction of the auction process, characterizing it as arbitrary, illegal and contrary to the principles of natural justice.

At the hearing today, the learned counsel for the petitioner contends that the petitioner is a landless poor person and therefore cannot be evicted from the lands in question even though the lease period might have come to an end.

It is the settled principle of law and by now well established that alienation of public property or property over which public authorities have a control, including by way of a grant of lease should be only by a public, transparent process preferably by way of a public auction so as to ensure a fair and competitive return for public property, for the benefit of the society, the public exchequer or in the case of Endowments lands for the benefit of the Endowment concerned. It is not necessary for an idle parade of familiar authority, as the principle is too well settled.

In so far as agricultural lands of Charitable and Hindu Religious Institutions and Endowments are concerned, the State Government in exercise of powers conferred by Sec.82 read with Sec.153(1) of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act,1987 ( for short “the Act”) has issued in G.O.Ms.No.379 Revenue Department, dated.11-03-2003, the A.P. Charitable and Hindu Religious Institutions & Endowments Lease of Agricultural Lands Rules,2003 ( for short “ the 2003 Rules”). Rule 7 of the Rules ordains that all leases shall be by a public auction, unless pursuant to a request made by the executive authority (of the Charitable or Hindu Religious Institution) made in writing to the competent authority, the competent authority permits the lease of any property otherwise than by public auction, if he is satisfied, for reasons

to be recorded in writing, that the suggested procedure is necessary and in the interests of the institution or Endowment. Rule.8 of the 2003 Rules mandates that no lease shall be granted for a period exceeding three (3) years unless the permission of the Commissioner of Endowments is obtained prior to causing publication of the auction notification, under Rule.11 of the 2003 Rules. Rules.9 to 14 deal with the substance and procedure of conduct of auction and acceptance of the bids. Rule.16 read with Rule.14 ordains that all leases, shall be reported to the competent authority, who may either confirm, or for reasons to be recorded in writing disapprove the lease.

The petitioner neither pleads, urges nor establishes before this Court that pursuant to his submitting his bid at the auction held in 2003 a lease was entered into which was approved by the competent authority. Contrary to the mandate of the statutory rules above, it cannot gainfully be contended that the petitioner is a legitimate lessee of the lands of the Devastanam.

A private or sub-roza understanding that the petitioner may have had with the trustees of the Devastanam or with any Officer of the Endowments Department, however high in the hierarchy would not operate to eclipse the trajectory of the statutory rules. No authority, either of the State or of the Endowments Department or in the management of the Devastanam, has any manner of right and competence to deviate from the mandate of the rules and grant a lease otherwise than in accordance with the rules.

On the above analysis the petitioner is seen to be no more than an encroacher of the properties of the Devastanam. The possession of the petitioner brought about by the illegal conduct of the trustees of the Devastnam or of an Executive Officer would not alleviate the status of the petitioner from that of an encroacher to that of a lessee. Since the petitioner is in illegal occupation of the lands of the Devastanam, the petitioner has no *locus standi* to challenge the lawful exercise of

statutory authority of notifying a public auction and conducting it on 07-11-2006, for grant of the leasehold rights of agricultural lands of Devastnam. It is well established that no mandamus can issue to interdict exercise of lawful authority.

For the plurality of the reasons recorded above, there are no merits in the writ petition. The writ petition beseeches rejection and is accordingly dismissed at the stage of admission after hearing the learned counsel for the petitioner and learned Government Pleader for Endowments. No order as to costs.

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**GODA RAGHURAM,J**

7th NOVEMBER 2006
***TSNR**